UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15//Add.1
18 February 1993

ENGLISH
Original: ENGLISH/SPANISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Third session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Bolivia

1. The Committee considered the initial report of Bolivia (CRC/C/3/Add.2) at its 52nd, 53rd and 54th meetings (CRC/C/SR.52 to 54), held on 14 and 15 January 1993, and adopted* the following concluding observations:

A. Introduction

2. The Committee notes with satisfaction the timely submission of the initial report of Bolivia, which was one of the first States to become a party to the Convention on the Rights of the Child. Although the report contained valuable information on the legislative framework for the application of the Convention, the dialogue gave way to a request for further information on how the laws are applied in actual practice and what mechanisms exist to evaluate the results that have been achieved.

3. The Committee attaches great importance to the opportunity, afforded by the consideration of a State party's report, to undertake a constructive dialogue with that State party on the implementation of the Convention. In this regard, the Committee expresses its appreciation to the delegation of Bolivia for facilitating a useful and frank discussion and for providing further information to the Committee to enable it to obtain a more comprehensive view of the application of the Convention in Bolivia. The Committee takes note of the statement made by the delegation regretting that it had not been possible to include high-level representatives from the ministries concerned with the actual implementation of the Convention who could have benefited from direct dialogue with the Committee.

---

* At the 65th meeting, held on 22 January 1993.

B. Positive aspects

4. The Committee welcomes the recent adoption and entry into force of the new juvenile code, which represents significant progress toward harmonizing legislation and policy with the provisions of the Convention and thereby providing a legal framework for its implementation. The Committee notes with satisfaction the process of the preparation of the reports, the involvement of the judiciary as well as the steps taken to provide for the participation of non-governmental organizations in the preparation of the relevant legislation and the formulation of public policy on children, thereby broadening popular participation in the implementation process. In this connection, it is also important to note that the provisions of the Convention may be invoked in a court of law in Bolivia.

C. Factors and difficulties impeding the implementation of the Convention

5. The Committee notes that economic factors, including a high-level of external debt, have made the full application of the Convention more difficult. In this respect, the Committee notes with concern that the long-term considerations embodied in many structural adjustment policies have not adequately taken into account the needs of today's children. While the State is responsible for the implementation of the Convention on the Rights of the Child, the Committee recognizes that additional international assistance will be needed to more effectively address the challenge of improving the situation of children living in poverty, particularly those from the rural areas of the country.

6. The Committee also recognizes that, since the new juvenile code was adopted only recently, there has not been sufficient time to implement it fully or to evaluate its effectiveness.

D. Principal subjects of concern

7. The Committee expresses its concern that the stringent budgetary measures have had high social costs and have adversely affected the rights of the child in Bolivia. The Committee, while welcoming the adoption of the Ten-year Plan of Action for the Bolivian Child, which is aimed at redressing in favour of children some of the present imbalances, emphasizes the need to elaborate a comprehensive strategy for implementing the Convention and to develop an effective monitoring mechanism for evaluating the progress achieved and the difficulties encountered. At present, it is unclear how non-governmental organizations and the general public are to be involved in monitoring and evaluating the application of the Convention.

8. The Committee is concerned that the definition of the child contained in the juvenile code does not comply with the requirements of article 1 of the Convention.

9. The Committee underlines the importance of implementing all of the provisions of the Convention in the light of the general principles contained in articles 2, 3, 6 and 12 of the Convention. In this regard, the Committee notes with concern the disparities in the status and treatment of children in Bolivia conforming to distinctions based on race, sex, language and ethnic or social origin. Vulnerable groups of children, including girl children, indigenous children and children living in poverty, are particularly disadvantaged in their access to adequate health and educational facilities and are the primary victims of such abuses as sale and trafficking, child labour and sexual and other forms of exploitation. The diminished level or protection for girl children inherent in the lower minimum age for marriage is discriminatory and, as a result, deprives this group of children of the benefit of other protections afforded by the Convention.

10. The Committee is concerned that only 47 per cent of births are supervised by qualified health care workers, and is alarmed at the implications this may have for increased likelihood of sickness and disability arising from preventable problems occurring during delivery. More budgetary support is needed to correct this situation, as well as sufficient support to programmes benefiting the mental and physical development of children. With respect to education, the Committee notes with concern that vulnerable groups of children, such as girl children, indigenous children and children living in rural areas, are over-represented in the number of children not enrolled in school.

11. With regard to articles 37 and 40, the Committee is concerned that there are not adequate safeguards to ensure non-discrimination in the implementation of these provisions of the Convention. The Committee is concerned about the present discretionary procedure of considering the "personality" of the child as a criteria for passing sentences. This practice, in its actual application, may often be discriminatory against children living in poverty. The Committee is also concerned that there is inadequate separation of the children from adults in detention and that a child may remain in custody for the excessively long period of 45 days before the legality of his or her detention is decided upon. The age for legal counselling without parental consent is unclear and practices in this regard may not be in conformity with article 37 (d) of the Convention.

12. The Committee expresses most particular concern for children who work or live in the street in order to survive and who require special attention because of the risks they are exposed to.

E. Suggestions and recommendations

13. The Committee recommends that the necessary changes be made in the juvenile c de to ensure that it is in full conformity with the requirements of the Convention, particularly with respect to the definition of the legislative framework and evaluating its effect on children, especially those from vulnerable groups. In this connection, the impact of the Ten-year Plan of Action for the Bolivian Child should also be actively monitored and statistical and other indicators necessary for evaluating the progress achieved should be included in the second periodic report of the State party. The Committee positively notes the statement made by the delegation indicating its commitment to send to the Committee in the near future further information

on indicators, in particular in the field of health, education, children in conflict with the law, disabled children or abandoned children.

14. The Committee emphasizes that the principle of non-discrimination, as provided for under article 2 of the Convention, must be vigorously applied, and that a more active approach should be taken to eliminate discrimination against certain groups of children, most notably girl children. In this connection, the Committee notes that the application of this and the other general principles of the Convention cannot be dependent upon budgetary resources. With regard to budgetary priorities in the allocation of available resources, the State party should be guided by the principle of the best interest of the child, as provided for in article 3 of the Convention, particularly as this applies to the most vulnerable groups of children, such as girl children, indigenous children, and children living in poverty, including abandoned children.

15. The Committee encourages the Government of Bolivia to consider the possibility of acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

16. The Committee recommends that the State party undertake to ensure that adequate protection is afforded to economically and socially disadvantaged children in conflict with the law and that alternatives to institutional care are available, as provided for under article 40, paragraphs 3 and 4, of the Convention.

17. The Committee underlines that the provisions of the Convention should be widely publicized among the general public and, in particular, among judges, lawyers, teachers and members of other professions working with children or which are concerned with the implementation of the Convention. Particularly important in this regard is the training of police and the staff in correctional facilities. Such initiatives could be effectively undertaken in cooperation with non-governmental organizations.

18. The Committee recommends that the provisions of the Convention should be more readily available in local languages. Steps should be taken to encourage grass-roots support for the rights of the child and to use the Convention as a tool to stimulate popular volunteer programmes, as a way of supplementing budgetary resources available for the benefit of children.